

EXHIBIT 17

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4 _____
5)
6) Civil Action No.
7) 5:16-cv-10444-JEL-MKM
8 In re: FLINT WATER CASES) (consolidated)
9)
10) Hon. Judith E. Levy
11) Mag. Mona K. Majzoub
12)
13) STATE OF MICHIGAN
14 Jennifer Mason, et al.,) IN THE CIRCUIT COURT FOR THE
15) COUNTY OF GENESEE
16 Plaintiffs,) Case No. 17-108646-NO
17)
18 vs.) Case No. 16-106150-NM
19) Hon. Joseph J. Farah
20 Lockwood, Andrews & Newman,))
21 PC, et al.,)
22)
23 Defendants.)
24 _____)

25 HIGHLY CONFIDENTIAL
26 VIDEOTAPED DEPOSITION OF WARREN GREEN
27 VOLUME I
28 Thursday, June 25, 2020
29 at 9:00 a.m.
30
31 Taken at: LAN
32 One Oakbrook Terrace, Suite 300
33 Oakbrook Terrace, Illinois 60181
34 REPORTED BY: SARA S. CLARK, RMR/CRR
35 GOLKOW LITIGATION SERVICES
36 877.370.3377 ph | 917.591.5672 fax
37
38 deps@golkow.com

1 A P P E A R A N C E S

2 - - -

3 On behalf of the Class Plaintiffs:

4 JORDAN CONNORS, ESQUIRE
SUSMAN GODFREY L.L.P
5 1201 Third Avenue, Suite 3800
Seattle, Washington 98101
6 206-516-3880
jconnors@susmangodfrey.com

7

8 On behalf of Individual Plaintiffs:

9 TODD J. WEGLARZ, ESQUIRE
FIEGER LAW
10 19390 West Ten Mile Road
Southfield, Michigan 48075-2463
11 248-355-5555
t.weglarz@fiegerlaw.com

12

13 On behalf of the Mason State Court Plaintiffs:

14 ADAM T. SCHNATZ, ESQUIRE
MARK L. MCALPINE, ESQUIRE
15 MCALPINE PC
3201 University Drive, Suite 200
16 Auburn Hills, Michigan 48326
248-373-3700
17 atschnatz@mc Alpinepc.com
mlmc Alpine@mc Alpinepc.com

18

19 On behalf of the People of the State of Michigan:

20 NATE A. GAMBILL, ASSISTANT ATTORNEY GENERAL
525 West Ottawa Street, 6th Floor
21 Lansing, Michigan 48909
517-335-7664
22 gambilln@michigan.gov

23

24

1 On behalf of Defendants Veolia Water North America
Operating Services, LLC, Veolia North America,
2 LLC, and Veolia North America, Inc.:

3 BRYAN D. MCELVAINE, ESQUIRE
CAMPBELL CONROY & O'NEIL, P.C.
4 1205 Westlakes Drive, Suite 330
Berwyn, Pennsylvania 19312
5 610-964-1900
bmcelvaine@campbell-trial-lawyers.com

6 and
KRISTIN M. DUPRE, ESQUIRE
7 CAMPBELL CONROY & O'NEIL, P.C.
1 Constitution Wharf, Suite 310
8 Boston, Massachusetts 02129
617-241-3000
9 kdupre@campbell-trial-lawyers.com

10

11 On behalf of Defendant Rowe Professional Services
Company:

12

CRAIG S. THOMPSON, ESQUIRE
13 SULLIVAN, WARD, ASHER & PATTON, PC
25800 Northwestern Highway, Suite 1000
14 Southfield, Michigan 48075
248-746-0700
15 cthompson@swappc.com

16 On behalf of Defendant City of Flint:

17 FREDERICK A. BERG, ESQUIRE
MITCHELL S. ZAJAC, ESQUIRE
18 BUTZEL LONG
150 West Jefferson, Suite 100
19 Detroit, Michigan 48226
313-225-7000
20 berg@butzel.com
mzajac@butzel.com

21

22

23

24

1 On behalf of Defendants Leo A. Daly Company and
Lockwood, Andrews & Newnam, Inc.:

2

PHILIP A. ERICKSON, ESQUIRE
3 PLUNKETT COONEY, P.C.
325 East Grand River
4 City Center, Suite 250
East Lansing, Michigan 48823
5 517-333-6598
perickson@plunkettcooney.com

6

7 On behalf of McLaren Regional Medical Center:

8 SUSAN E. SMITH, ESQUIRE
BEVERIDGE & DIAMOND, P.C.
9 456 Montgomery Street, Suite 1800
San Francisco, California 94104
10 1-415-262-4000
ssmith@bdlaw.com

11

and

MEGAN R. MULDER, ESQUIRE
12 CLINE CLINE & GRIFFIN, P.C.
503 Saginaw Street, Suite 1000
13 Flint, Michigan 48502
1-810-232-3141
14 mmulder@ccglawyers.com

15 On behalf of Defendants Patrick Cook and
Michael Prysby:

16

ALLISON M. COLLINS, ESQUIRE
17 FOSTER SWIFT COLLINS & SMITH PC
313 South Washington Square
18 Lansing, Michigan 48933
517-371-8124
19 acollins@fosterswift.com

20

On behalf of Defendant Daugherty Johnson:

21

EDWARD A. BAJOKA, ESQUIRE
22 BAJOKA LAW GROUP PLLC
500 Griswold, Suite 2320
23 Detroit, Michigan 48226
313-462-0537
24 edwardbajoka@bajokalaw.com

1 On behalf of Defendant Gerald Ambrose:

2 BARRY A. WOLF, ESQUIRE

503 Saginaw Street

3 Flint, Michigan 48502

810-762-1084

4 bwolf718@msn.com

5 On behalf of Defendant Howard Croft:

6 ALEXANDER S. RUSEK, ESQUIRE

WHITE LAW PLLC

7 2549 Jolly Road, Suite 340

Okemos, Michigan 48864

8 517-316-1195

alexrusek@whitelawpllc.com

9

10 On behalf of the United States of America:

11 TIMOTHY B. WALTHALL, ESQUIRE

U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION

12 175 N. Street, N.E.

Washington, D.C. 20002

13 202-598-0389

timothy.b.walthall@usdoj.gov

14

15 Also Present:

16 Robert Martignetti, Videographer

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1 improved corrosion control, close quote.

2 Did I read that correctly, sir?

3 A. Yes, you did.

4 Q. And in your reading of this document,
5 sir, since it's in Priority 2, is it your
6 understanding that the recommendation was that
7 this recommendation for corrosion control could be
8 done at the same time as the GAC filter, also
9 referenced in Priority 2, sir?

10 MR. GAMBILL: Objection; form;
11 foundation.

12 Q. You can answer, sir.

13 A. Just so everybody knows, I'm not hearing
14 the objections. I'm just hearing noise, so...

15 Q. I think Mr. Erickson objected as to
16 form, but if I'm incorrect, I'm sure he'll correct
17 me.

18 You can answer, sir.

19 A. Would you please repeat?

20 Q. Sure, sir.

21 I was pointing out that there is
22 basically three items under Priority 2, correct?

23 A. Yes.

24 Q. The first of which is for GAC.

1 MR. ERICKSON: I do want to just note
2 that I -- I was not the person objecting to form.

3 MR. McELVAINE: Oh, I'm sorry. I'm
4 sorry.

5 MR. ERICKSON: It doesn't matter.
6 Unless the court reporter wants to know.

7 THE STENOGRAPHER: I understood it was
8 Mr. Gambill.

9 MR. McELVAINE: Thank you.

10 BY MR. McELVAINE:

11 Q. Mr. Green, I'm pointing out to you
12 pages -- and I think we have it on the screen for
13 all to see -- under Priority 2, there are three
14 items; is that correct, sir?

15 A. Yes.

16 Q. And that's on Pages 9 and 10, and the
17 first deals with GAC, correct?

18 A. Yes.

19 Q. And what is GAC, sir?

20 A. Granular activated carbon.

21 Q. Okay. And the third item under
22 Priority 2 deals with corrosion control,
23 recommending a study, correct?

24 A. Scroll down just a touch.

1 Q. Yes, sir. Absolutely, sir.

2 A. That's enough.

3 Q. Do we have it there? Can you see it,
4 sir?

5 A. Yes.

6 Q. Okay.

7 A. And the answer is yes to your question.

8 Q. Okay. Thank you.

9 In March 2015, did you discuss these
10 Veolia recommendations with anybody from the City
11 of Flint?

12 A. I cannot tell you it was in March, but I
13 do know that we discussed these with the City of
14 Flint shortly after this report was received.

15 Q. When you say "shortly," would you say
16 within a matter of weeks, sir?

17 A. Yes.

18 Q. And what -- with whom was your
19 discussion, sir?

20 A. Primarily, Howard Croft and
21 Brent Wright. Specifically, the City asked us to
22 install the GAC, which eventually became a project
23 that LAN performed. After we started the design
24 of the GAC, we approached Howard Croft after a

1 project meeting at the water plant and asked if he
2 wanted us to get started on the permanganates and
3 the phosphate feeds. And he said, "We're thinking
4 about it," and that was the end of his
5 conversation.

6 Q. Did the City of Flint ever ask LAN to
7 work on the phosphate feed -- or to install a
8 phosphate feed for corrosion control?

9 A. In September of 2015, they initially
10 approached us to start the design of a phosphate
11 feed system. And eventually we did provide a
12 design that was installed at the plant, I'm going
13 to say around end of October, early November of
14 2015.

15 Q. And when you first had a discussion with
16 the City in approximately September 2015 regarding
17 the implementation or the construction of the
18 phosphate feed, did they indicate at that point in
19 time when they wanted it completed by initially?

20 A. They asked us to fast track it.

21 Q. Prior to fast tracking it, had they put
22 a date out there of 2017 for completion of the
23 phosphate feed, sir?

24 A. I'm going to have to ask a

1 clarification. I thought you previously asked me
2 around a September date of 2015.

3 Q. Yes, sir.

4 A. Well, that request or that
5 recommendation of 2017 was earlier in the year as
6 part of a capital improvement plan they had.

7 Q. Okay. So earlier in 2015, as part of a
8 capital improvement plan, the City had the
9 implementation of corrosion control for about two
10 years later, in 2017; is that your testimony, sir?

11 MS. COLLINS: Objection; form;
12 foundation.

13 Q. You can answer, sir.

14 A. Howard Croft gave me a table of proposed
15 improvements and estimated cost for their CIP and
16 asked me to look at it. And I marked it up and
17 said, "Howard, you need to move all of these
18 treatment systems up to now. You can't put them
19 off."

20 And I remember phosphate feed was in
21 there because he had misspelled phosphoric acid.
22 He called it "phosferric acid." And that stuck
23 out to me and still sticks out to me today.

24 So, yes, they did have it originally

1 A. Langelier Index is a corrosion indice
2 that has been used for many, many years. Recent
3 research has shown that it's not a very good
4 indicator for lead. But the Langelier Index is a
5 calculation that you go through that takes into
6 account temperature, alkalinity, pH, calcium,
7 total dissolved solids. You may see some form of
8 the equation refer to filterable residue at
9 180 degrees C, and that's just TDS.

10 You run this calculation, and if your
11 water is fully stable, in other words, it's not
12 corrosive or it's not calcium depositing, you will
13 have a Langelier Index of zero. If the water is
14 corrosive, the Langelier Index will be negative.
15 And if the Langelier Index is positive, then it
16 could be depositing or encrusting. In other
17 words, it would precipitate calcium.

18 Q. So in this conversation that you had
19 with Mr. Glasgow in the end of February 2015,
20 number one, it was in the context of the City
21 having received --

22 A. You're freezing on me, so...

23 Q. I'm sorry. We'll work through it, I
24 hope, sir.

1 What I was asking, sir, is that this
2 conversation with Mr. Glasgow occurred in the end
3 of February 2015, correct?

4 A. In February. I don't remember if it was
5 the end or beginning or -- sometime in February.

6 Q. Okay. And you discussed that there were
7 one or two high lead levels somewhere in the City
8 of Flint?

9 A. No. He indicated there were a couple.

10 Q. A couple, okay.

11 Did he give any identifying about it?
12 For example, did he mention any particular
13 homeowner or any location, sir?

14 A. No, sir.

15 Q. In this conversation, though, LI, or the
16 Langelier Index, was discussed, correct?

17 A. I said to him, "You need to get your LI
18 up." And when you increase your LI, you do it by
19 increasing pH and alkalinity.

20 Q. Okay.

21 A. And pH adjustment and alkalinity
22 adjustment are two of the most common forms of
23 corrosion control that we still use today.

24 Q. Okay. And in response to your statement

1 about "You need to get the LI up," what did
2 Mr. Glasgow say to you?

3 A. He said, "I'm working on it," and then
4 he left.

5 Q. Okay. Did you have any further
6 discussion with Mr. Glasgow about this effort to
7 get the LI up, sir?

8 A. No, sir.

9 Q. Did anybody else in the room say
10 anything further about this incident, sir?

11 A. No, sir.

12 Q. The next time you had any discussion
13 with anybody about any type of corrosion control
14 measure, was it the discussion that we previously
15 discussed after the Veolia March 12, 2015 report
16 came out with recommendations, sir?

17 A. As I recall today, yes.

18 Q. Okay. Now, sir, jumping forward a
19 little bit. I think you indicated a few minutes
20 ago that there was a TAC, or technical advisory
21 committee, meeting in May of 2015, sir?

22 A. Yes. Toward the end of the month.

23 Q. And I think -- please correct me if I'm
24 wrong, sir -- that was the next time you heard

1 anything about lead test results, sir?

2 A. Yes.

3 Q. And what was discussed at that time, and
4 by whom, sir?

5 A. LAN was invited to the meeting to
6 provide an update on the GAC filter project. And
7 in that meeting, Howard Croft made a statement to
8 the effect that some attention has shifted to
9 lead, and we had a couple of lead -- high lead
10 samples; however, we are in compliance with the
11 Lead and Copper Rule, and the water is safe.

12 Q. Did anybody else at that meeting offer
13 any counter opinion or any agreement to what
14 Mr. Croft was saying?

15 A. No. However, after the meeting, I went
16 to Howard's office, and I said, "Howard, what is
17 this with the lead readings?" He goes, "Warren,
18 there's nothing to it." He said, "The same people
19 that have been complaining about the discolored
20 water are the ones complaining about this. And
21 what they're really complaining about are water
22 rates." So I said, "Howard, are you telling me
23 that you're okay here, you're in compliance with
24 the numbers?" And he said, "Yes."

1 LAN's recommendation to increase the dosage of
2 ferric chloride at the Flint Water Treatment
3 Plant, sir?

4 A. I don't know if this document goes with
5 anything else. It's a two-page document. I don't
6 know if this was just a -- a draft. But what we
7 were seeing was increasing ferric feed is
8 improving TOC removal.

9 I'm going to go back to the original
10 treatability test. A ferric dose with -- of about
11 45 milligrams per liter plus a coagulant aid,
12 flocculant and a floc aid, flocculant -- or
13 polymer showed the best TOC removal; however,
14 feeding about 60 to 65 milligrams per liter of
15 ferric alone had about the same removal
16 efficiency.

17 So I don't think Flint's issue was as
18 much ferric, but it was increasing ferric as it
19 was getting it consistent. If you go back and
20 look at the data, which I've done, I don't know,
21 recently, you know, they would be feeding, you
22 know, 40 parts of ferric and then drop to 20 and
23 then go up to 50 and then drop.

24 So at the time that we were doing this,

1 they were not feeding enough to get the TOC out.

2 Q. So you were recommending increasing
3 and/or being consistent in the usage of ferric
4 chloride, sir?

5 A. I think sometime after this document
6 that you have up here, which is dated
7 December 1st, 2014, I think in a later document in
8 early '15, we did indicate that they should be
9 feeding about 60 milligrams per liter of ferric,
10 maybe 65; I don't remember exactly.

11 And so I can't say that was an increase
12 or not. It may have been an increase over some
13 times. It could be the same as other times. So
14 there's -- there's just not one dose. There
15 were -- the dose was bouncing up and down, if that
16 makes sense.

17 Q. Do you know if the City of Flint ever
18 followed your recommendation regarding the ferric
19 chloride?

20 A. They still fed it in variable levels.
21 They never really increased it after our
22 recommendation on a consistent basis. It would go
23 up for a while and then down for a while and, et
24 cetera.

1 Q. So is the answer, no, they did not
2 follow your recommendation for a consistent dosage
3 of ferric, sir?

4 A. No, they didn't.

5 Q. Okay.

6 MR. McELVAINE: Sir, we've reached the
7 point again where I've used up more time, and I
8 think I will pass on to the next attorney just so
9 I can have a little bit of time reserved for
10 further discussion tomorrow or Monday.

11 So thank you very much, sir. I
12 appreciate your time.

13 THE WITNESS: Thank you.

14 VIDEOGRAPHER: The time is 10:38 a.m.,
15 and we're off the record.

16 (Discussion held off the record.)

17 (Recess taken.)

18 VIDEOGRAPHER: The time is 10:47 a.m.,
19 and we're on the record.

20 EXAMINATION

21 BY MR. BERG:

22 Q. Good morning, Mr. Green. My name is
23 Rick Berg, and I represent the City of Flint.
24 Thank you for attending today.

1 Can you hear me all right?

2 A. Speak up just a little, please. I've
3 got my volume all the way up. Some of you are a
4 little light.

5 Q. All right. Let me see -- I'm not sure
6 if by turning my volume up it will help, but I
7 will try to speak up.

8 A. Thank you.

9 Q. Towards the end of Mr. McElvaine's
10 questions, he asked you about some meeting notes
11 from November 7, 2014. I believe you said that
12 you recalled attending the meeting, but that you
13 didn't recall a certain discussion that he asked
14 you about at the end of the notes. I have a copy
15 of those -- those same meeting notes, and I'd like
16 to show those to you now. I believe that was
17 Exhibit 4.

18 Can you see my screen now, Mr. Green?

19 A. No.

20 Q. All right. How about now?

21 A. There it goes.

22 Q. All right. Thank you.

23 All right. Do you recognize this
24 document from a few minutes ago?